

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5913 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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M IKBAL R MALIK

Versus

STATE OF GUJARAT

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Appearance:

MR JV MEHTA for Petitioner

MR KAUSHAL THAKORE for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/12/96

ORAL JUDGMENT

Heard learned counsel for the parties and perused the Special Civil Application.

2. The petitioner prayed in this Special Civil Application that a direction may be issued to the respondent to give immediate permanent employment to the petitioner and 66 other land losers, shown at annexure 'A' as per their qualifications. So far as other 66

persons are concerned, they have not filed any writ petition nor the Court has permitted the petitioner to file this petition in representative capacity. It also cannot be said to be a Public Interest Litigation because it is not the case of the petitioner that those 66 persons are the persons of no means. Nothing has been produced on record in this respect by the petitioner. Even if we go by the fact that the other 66 persons are poor persons, and are not men of means to file the petition, then too, the State is providing legal aid and they could have filed a writ petition by taking legal aid which has also not been done. This shows that those persons were not interested in filing any petition before this Court. Yet there is another reason for which this petition, at the instance of the petitioner, for those 66 persons cannot be entertained. In service jurisprudence it is for the aggrieved person, i.e. non appointee to assail the legality of the action. A reference in this respect may have to the decision of Hon'ble Supreme Court in the case of R.K. Jain v. Union of India, reported in AIR 1993 SC 1769.

3. On merits also, the claim of the petitioner for 66 persons is devoid of any substance. The learned counsel for the petitioner admits that under the order dated 13th June 1984, about 35 persons out of those 66 persons were given appointments by the respondent at N.M.R. establishment as N.M.R. unskilled labourers on daily wages for a period of one months. The learned counsel for the petitioner admitted that this one month period was extended for 1 1/2 months more. The services of those persons came to an end by afflux of time and it cannot be said to be illegal or arbitrary. Those who were appointed temporarily for fixed term appointment, do not become permanent unless they acquire that capacity by force of any Rule or declared as permanent servant. It is a case of termination of services of some appointees out of 66 persons by afflux of time and in such cases, even the order of termination is not required. On the basis of fixed term appointment no right has accrued to the persons to continue in employment. So far as the case of the petitioner is concerned, it is suffice to say that he has failed to make out a plea of discrimination. It is not the case of the petitioner that some other persons whose land has been acquired for the project have been given appointment merely on the ground of acquisition of land. The land is acquired under the provisions of the Land Acquisition Act, for which the land holders would have been given and should have been given due compensation. It is not the case of the petitioner that compensation was not made. It is also

not case of the petitioner that there was a condition that on acquisition of the lands, appointment to one of the family members of the land looser would be given. Otherwise also, no such condition could have been there because the Land Acquisition Act nowhere provides for giving of employment to the persons whose land has been acquired.

4. Taking into consideration the totality of the facts of the case, this writ petition is wholly misconceived and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)